REMARKS

Claims 37-44 are pending. The Office Action dated July 17, 2003 in this Application has been carefully considered and the above amendments and the following remarks are presented in a sincere attempt to place this Application into allowance. Claim 37 has been amended in this Response. Reconsideration and allowance are respectfully requested in light of the foregoing amendments and the following remarks.

Claims 37-44 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 5,987,324 by Peranto et al. ("Peranto"). Insofar as they may be applied against the claims as amended, these rejections are overcome.

Regarding Claim 37, Peranto does not teach, suggest, or disclose the specific use of traffic management for multi-carrier networks and does not disclose, teach, or suggest the "initialization on the first carrier frequency." Peranto teaches that "Block B [of FIGURE 4...] tunes to the control channel having the highest signal strength." (Peranto, col. 5, lines 49-51). Also, Peranto specifically teaches a methodology wherein there is prevention of a cell phone from receiving a control channel of a wrong system, as the Examiner correctly noted in the Office Action. However, Peranto teaches that the control channels are scanned and the desired control channel is locked in only after it is determined that the desired control channel has the highest signal strength. In other words, Pernato teaches the better performance by the utilization of a frequency with the highest signal strength.

The present invention of Claim 37 as amended, though teaches the use whereby traffic is managed within a CDMA system with multiple carrier frequencies, not simply preventing channel control for a wrong system as Peranto teaches. The present invention of Claim 37 does not scan the available channels for the highest available signal strength. Instead the present invention of Claim

37 choose a channel based on efficiency of the entire network. The choice of a channel is based on traffic management. Hence, the present invention of Claim 37 is less concerned with signal strength and more concerned with more favorable frequencies for traffic management because more favorable frequencies allow for optimization and increased efficiency.

In view of the foregoing, it is apparent that the cited reference does not disclose, teach or suggest the unique combination now recited in independent Claim 37. It is therefore submitted that Claim 37 clearly and precisely distinguishes over the cited reference in a patentable sense, and is therefore allowable over this reference and the remaining references of record. Accordingly, it is respectfully requested that the rejection of Claim 37 under 35 U.S.C. § 102(e) as unpatentable over Peranto be withdrawn and that Claim 37 be allowed.

Claims 38-44 are dependent Claims that depend on and further limit Claim 37. Hence, for at least the aforementioned reasons, these Claims would be deemed to be in condition for allowance. Hence, it is respectfully requested that the rejections of the dependent Claims 38-44 under 35 U.S.C. § 102(e) as anticipated over Peranto also be withdrawn.

Applicants have now made an earnest attempt to place this Application in condition for allowance. For the foregoing reasons and for other reasons clearly apparent, Applicants respectfully request full allowance of Claims 37-44.

Applicants do not believe that any fees are due; however, in the event that any fees are due, the Commissioner is hereby authorized to charge any required fees due (other than issue fees), and to credit any overpayment made, in connection with the filing of this paper to Deposit Account No. 50-0605 of CARR LLP.

Should the Examiner deem that any further amendment is desirable to place this Application in condition for allowance, the Examiner is invited to telephone the undersigned at the number listed below.

Respectfully submitted,

CARR LLP

Dated: 10/6/03

CARR LLP
670 Founder's Square
900 Jackson Street
Dallas, Texas 75202
Telephone: (214) 760-3030
Fax: (214) 760-3003

Gregory W. Carr
Reg. No. 31,093